

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2331

IN THE MATTER OF:

Served April 13, 1982

Application of ARROWHEAD BUS &)
LIMOUSINE EQUIPMENT, INC., for a)
Certificate of Public Convenience)
and Necessity to Conduct Charter)
and Special Operations Between)
Points in the Metropolitan District)

Case No. AP-81-27

By application tendered for filing on November 12, 1981, as supplemented and accepted for filing on November 20, 1981, Arrowhead Bus and Limousine Equipment, Inc. (ABLE), seeks a certificate of public convenience and necessity to transport passengers, mail, express and baggage in the same vehicle with passengers, in charter and special operations, between points in the Metropolitan District (except points solely within the Commonwealth of Virginia), restricted to the performance of such transportation in school bus equipment. Pursuant to Order No. 2289, served December 7, 1981, a public hearing on the application was held on February 3 and 5, 1982. McMichael School Bus Service, Inc., initially appeared in opposition to the charter authority portion of the application, but withdrew its opposition during the course of the hearing.

ABLE holds no permanent operating authority from the Commission, but had been providing charter service under a contract with Washington National Arena (the Capital Centre) between the arena and Georgetown University, pursuant to a grant of temporary authority in Case No. AP-81-30. 1/

Applicant's owner testified that ABLE has been providing service for local schools, primarily in northern Virginia, including morning pickups and afternoon drop-offs, as well as field trips and extra-curricular activities, since 1975. He stated that the company,

1/ See Order No. 2287, served December 4, 1981.

which operates 15 school buses, owns its own maintenance facility. The witness described maintenance procedures and driver-training procedures, and explained his desire more fully to use the company's equipment between normal school runs and during vacation and summer periods. He sponsored an exhibit illustrating potential tours that would be available to the public on both a charter and individually-ticketed basis.

ABLE's owner asserted that he first became familiar with the requirements of the Commission in 1978 or 1979 and discussed certification requirements with the staff of the Commission at that time. ^{2/} In response to questions about whether applicant had knowingly provided unauthorized transportation subsequent to the filing of this application, the witness explained procedures used by ABLE for taking transportation orders. He described, in particular, the services performed on January 22, 1982, in connection with the March for Life held on the Mall in Washington, D. C.

ABLE's accountant testified as to the financial condition of the company and the projection of revenue and revenue deductions (financial forecast). He stated that while the company has experienced some financial problems in the past, the situation is improving and ABLE is now in a relatively good financial position. The financial forecast projects income of \$501,757 for the 12 months ended August 31, 1982, cost of sales of \$259,691, general and administrative expenses of \$210,409 and net income from operations before taxes of \$31,657.

Ten witnesses testified in support of the application, including representatives from recreational and social groups and the president of a certificated carrier. A supervisor for the City of Rockville, Md., Department of Recreation, stated that he would expect to use applicant's services between eight and ten times a year for charter trips in the Metropolitan District. He stated that in the past year there has not been an occasion to arrange school bus transportation but planned to do so in the future because of a budgetary increase. Planned trips would include such destinations as the Capital Centre, and museums and theaters in Washington, D. C.

The service unit chairman of the Girl Scouts of America for the City of Rockville, Md., testified that she supervises about 22

^{2/} The Compact exempts local for-hire service concerning transportation by motor vehicles employed solely for school service. See Title II, Article XII, Section 1(a)(3) and discussion infra.

troops and helps arrange bus transportation for occasional trips and for a day camp program. At this time the troops usually arrange car pools for transportation because of discontent with past bus operations. The witness stated that the availability of ABLE to transport the Girl Scouts would ease travel in the future. She admitted, under cross examination, that she arranged no bus transportation in 1981, and that day camp needs would be isolated to points in Montgomery County with, perhaps, an occasional need for pickups in Prince George's County.

A social worker employed by the Salvation Army testified that her duties include serving as camp coordinator for the summer program. The camp, however, is located outside the Metropolitan District. The witness was familiar with ABLE's equipment and service for summer camp transportation, commenting favorably, but could not give specific information regarding the need for transportation within the confines of the Metropolitan District.

The tour director of the Southern Towers Social Club, an informal senior citizens group in Alexandria, Va., testified that the club has about 65 members and arranged transportation at least once a month for pleasure outings. Some trips have been arranged in the past on a per-capita basis while other transportation has been used on a charter basis. No trips are being made now because of the expense of hiring motor coach equipment. The price of school bus equipment is expected to be more reasonable. Day trips would be run between 10:00 a.m. and early afternoon to points of interest in Washington, D. C., such as museums, the Library of Congress and the Botanical Gardens, and area shopping malls including White Flint Mall in Montgomery County, Md.

The regional sales director of Oakwood Garden Apartments, Alexandria, Va., stated that she arranges lodging and transportation for corporate clients using the apartment complex and packages proposals to attract new clients. She explained the importance and difficulty of coordinating transportation as a part of sales proposals. In the past she has used ABLE's service for trips between points in Virginia, 3/ and found it satisfactory. The witness testified that the size of corporate clients varies considerably, up to several hundred people, and that the need could arise for both charter service and special operations, the latter service for scheduled trips to points of interest. In the past, passengers have resorted to private cars, rental cars and public transportation.

3/ Service not subject to Commission jurisdiction. Title II, Article XII, Section 1(b).

The contract administrator responsible for school bus transportation at Bolling Air Force Base testified regarding service problems with McMichael School Bus Service, Inc. 4/

A representative of Our Lady of Victory Retiree Club, a senior citizens group affiliated with a church in northwest Washington, D. C., testified that her club arranges for transportation to shopping malls in Montgomery and Prince George's County, Md., and points of interest in Virginia and the District of Columbia, including the Kennedy Center and the Arboretum. About 40 people would use the transportation service which is not now generally available because of the high price of motor coach equipment. Service would be planned for at least one trip a month. Trips would be open to members of the local community not affiliated with the club, on a per-capita basis, if seats were available.

The scout master for a Boy Scout troop in Prince George's County, Md., numbering about 30 members, testified that his troop has used ABLE's services without charge in the past because of the affiliation of ABLE's owner with the organization. Presently the scout troop relies primarily on car pool arrangements to visit points of interest throughout the Metropolitan District. The regular availability of ABLE would ease problems with coordinating car pools, and would present a viable, reasonably priced service to be used a minimum of six times a year, according to the witness.

The supervisor of marketing for season ticket sales for the athletic department at Georgetown University stated that among her duties is the arrangement of transportation for students attending Georgetown University basketball games at the Capital Centre. She expressed satisfaction with the service being performed by ABLE pursuant to a grant of temporary authority and stated that if ABLE is granted general charter authority she would use the carrier for transportation to other athletic events throughout the school year.

The president of Yellow Bus Lines, Inc., which holds WMATC Certificate of Public Convenience and Necessity No. 64, 5/ was subpoenaed by applicant and gave testimony regarding business dealings with protestant 4/ McMichael School Bus Service, Inc. Applicant also

4/ This testimony was adduced prior to McMichael's withdrawal of its opposition to the application.

5/ Yellow Bus Line's certificate authorizes charter operations between points in the Metropolitan District restricted to the use of school bus equipment.

elicited testimony concerning her company's policies regarding service for private school charter trips including the usual size of groups, number of chaperones, and the problems in determining whether service is for a school or for a non-school function.

The staff of the Commission subpoenaed three witnesses to testify concerning local transportation service performed January 22, 1982. The first witness, the pastor of Saint Louis Church, Alexandria, Va., testified that the church chartered one bus from ABLE to transport parishioners to the March for Life and that the bus service was open to both the church members and the school associated with the church. The trip was not an official school function and passengers were approximately 50 percent adults and 50 percent children .

The pro-life coordinator of Saint Lawrence Church in Alexandria, Va., testified that she chartered equipment from ABLE for the March for Life on January 22, 1982. She stated that Saint Lawrence does not have a school affiliated with the church but that the group using ABLE's bus was split evenly between adults and children. She further stated that, when she ordered the equipment, no inquiry or specification was made as to whether the passengers would be adults or school children.

The parish council secretary for Holy Spirit Church in Annandale, Va., testified that she arranged transportation for the March for Life on January 22, 1982, with ABLE. She stated that the transportation was for the parish, not the school affiliated with the church, and that the passengers were primarily adults. She added that, while the school does not regularly use school bus transportation, service for occasional field trips is provided by ABLE in a satisfactory manner.

The staff of the Commission also called as a witness a bus driver for the Keller Bus Company. The witness testified that he operated a Keller Bus Company school bus on January 22, 1982, under an agreement with ABLE, and followed instructions from ABLE to transport passengers from a church on Franconia Road (the location of Saint Lawrence Church), to the Mall for the March for Life. His recollection was that the group transported was comprised about equally of adults and children.

DISCUSSION AND CONCLUSIONS

The Compact, Title II, Article XII, Section 4(b) provides that a certificate of public convenience and necessity shall be issued by the Commission if it finds ". . . that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of the Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise, such application shall be denied."

The Commission finds that applicant has sustained its burden of proof regarding the matter of need for service between points in the Metropolitan District in school bus vehicles. Evidence presented by applicant generally shows a need for a low-cost service and there appears to be a need for more school bus equipment than is available from certificated carriers at the present time. The witnesses familiar with ABLE's service under school operations, temporary authority and intra-Virginia transportation iterated their satisfaction with ABLE's service. Sufficient need was illustrated to support a grant of authority for both charter and special operations service. In addition, no other school bus carriers sustained opposition to the application. The Commission is well aware that there already exist two certificated carriers who provide school bus service locally, but it is felt that the added competition will benefit the traveling public.

With respect to the matter of fitness, it appears that although ABLE has experienced financial difficulty in the past, the company is financially fit to conduct operations. The grant of authority herein is likely to improve the financial position of applicant. The record establishes that ABLE has sufficient, suitable equipment available to meet its service needs.

The Commission notes that while the carrier has been performing school bus operations in the past, presumably exempt from Commission regulation pursuant to Title II, Article XII, Section 1(a)(3) of the Compact, there have been occasions when there have been discussions between the carrier and the staff of the Commission concerning the scope of ABLE's operations. Particularly disturbing is the evidence adduced concerning the March for Life on January 22, 1982, reflecting the fact that this service, performed during the pendency of this application, was not exempt school transportation. Inasmuch as the evidence shows, however, that ABLE had provided school transportation in the past for one of the involved churches, and the orders taken for service did not clarify whether the service was for the church or an affiliated school, no Commission action will be taken at this time. The carrier is admonished, however, that it must be familiar with the nature of the service obligations it undertakes and the terms of the Compact and the rules and regulations thereunder, and that the Commission will closely monitor applicant's operations. Because of the grant of authority herein, it is presumed that all of ABLE's equipment will be used for certificated service, requiring that all future school contracts, previously exempt from Commission regulation, must be on file with this office. 6/

6/ The school bus exemption runs with the vehicle. See Order Nos. 521 and 1593, served September 2, 1965, and August 13, 1976, respectively, and Title II, Article XII, Section 1(a)(3) of the Compact.

Between applicant's proposed tariff and testimony elicited at the hearing, it is not clear how applicant intends to compute garage time in its minimum hours for charter service. The zone system proposed for special operations is inherently inequitable in that it provides undue opportunity for the length of the trip to be out of proportion with the amount of the fare. We find unacceptable and not in keeping with general practice concerning special operations the tariff provision that permits the carrier to cancel a trip when less than 40 seats (virtually a full load) have been sold. We will withhold approval of rates pending the filing by applicant of an acceptable tariff that eliminates these problems.

The carrier will also be directed to pay the balance of the money due the Commission for the expense of the hearing.

THEREFORE, IT IS ORDERED:

1. That Arrowhead Bus & Limousine Equipment, Inc., is hereby granted authority to transport passengers, mail, express and baggage in the same vehicle with passengers, in charter and special operations, between points in the Metropolitan District, restricted to transportation in school bus vehicles only and restricted against transportation solely between points in Virginia.

2. That Arrowhead Bus & Limousine Equipment, Inc., is hereby directed to file with the Commission (a) a certificate of insurance as required by Commission Regulation No. 62, (b) an affidavit of compliance with Commission Regulation No. 68 governing identification of motor vehicles, and (c) a check in the amount of \$571.60 to cover that part of its hearing costs, including transcript and witness fees, in excess of the assessment previously paid.

3. That Arrowhead Bus & Limousine Equipment, Inc., is hereby directed to file two copies of its revised WMATC Tariff No. 1 as required by Commission Regulation No. 55, to eliminate the problems specified in the text of this Order.

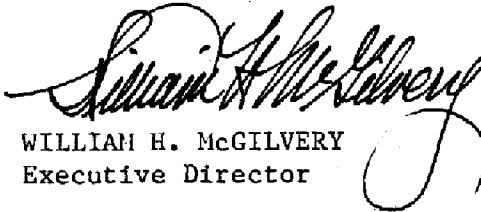
4. That upon timely compliance by Arrowhead Bus & Limousine Equipment, Inc., with the directives set forth in paragraph 2 above and the filing and approval by the Commission of a tariff as required in paragraph 3 above, an appropriate Certificate of Public Convenience and Necessity No. 75 will be issued.

5. That Arrowhead Bus & Limousine Equipment, Inc., must file a copy of each contract with public and private schools for the

transportation of school children in the Metropolitan District, and such contract filings shall be kept current.

6. That in the event Arrowhead Bus & Limousine Equipment, Inc., fails to comply with the directives set forth above within 30 days, or such further time as may be authorized by the Commission, the grant of authority made herein will be considered void and the application will stand denied in its entirety effective upon expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director